
IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH, CENTRAL DIVISION

DELTA STONE PRODUCTS,

Plaintiff,

v.

HARBOR FREIGHT TRANSPORT CORP.,
US EXPRESS, LLC, EMBASSY CARGO
S.P.A., RSA SUN INSURANCE OFFICE,
LTD., SERAN SALAMON, an individual,
RAFIK NAZAROV, an individual, and
DOES 1 through 10,

Defendants.

**MEMORANDUM DECISION AND
ORDER GRANTING FIRST MOTION
TO DISMISS AND DENYING SECOND
MOTION TO DISMISS**

Case No. 2:16-cv-00369-CW

Judge Clark Waddoups

This matter is before the court on a Motion to Dismiss Plaintiff's Second and Third Causes of Action filed by defendant Harbor Freight Transport Corp. (Dkt. No. 20.) A hearing on the motion was held before the Honorable Clark Waddoups on December 1, 2016. Gregory Roberts appeared on behalf of Delta Stone Products and Venus Booth appeared on behalf of Harbor Freight Transport Corp. For the reasons stated on the record, the court finds that Delta Stone's second and third causes of action against Harbor Freight are preempted by the Carmack Amendment. Harbor Freight's motion to dismiss (Dkt. No. 20) is therefore GRANTED. Upon additional discovery, should additional facts uncover that the Carmack Amendment does not apply to Harbor Freight then the court will consider granting Delta Stone leave to amend their complaint to add their state law claims.

Harbor Freight brought a second motion to dismiss state-law contribution cross-claims filed by US Express, LLC, who was represented by Nicholas Dudoich at the hearing. (Dkt. No.

47.) The parties agreed that if the Motion to Dismiss Plaintiff's Second and Third Causes of Action filed by defendant Harbor Freight Transport Corp. was granted then the second motion to dismiss the state law cross-claims would be moot and should therefore be denied. After due consideration of the parties' filings and oral arguments, and otherwise being fully advised,

IT IS HEREBY ORDERED, for the reasons stated on the record, that defendant Harbor Freight Transport Corp.'s Motion to Dismiss Plaintiff's Second and Third Causes of Action (Dkt. No. 20) is **GRANTED**. The second and third causes of action of plaintiff's complaint against Harbor Freight are dismissed. Defendant/Cross-Defendant Harbor Freight Transport Corp.'s Motion to Dismiss US Express, LLC's First and Second Claims against Harbor Freight Transport Corp. (Dkt. No. 47) is **DENIED** on the grounds of mootness.

SO ORDERED this 12th day of December, 2016.

BY THE COURT:



Clark Waddoups
United States District Court Judge